



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0430	Title:	Use unclaimed gift card funds to fund affordable housing loan account
Primary Sponsor:	Musgrove, John L	Status:	As Introduced

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|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$86,549
Other (Enterprise Fund)	\$0	\$0	\$0	\$5,650,145
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Other (Enterprise Fund)	\$0	\$0	\$0	\$5,650,145
Net Impact-General Fund Balance	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>(\$86,549)</u>

Description of Fiscal Impact: HB 430 revises language in the Montana Code Annotated Title 70, Chapter 9, and Section 8, requiring issuers of gift certificates and stored value cards to remit unused balances after three years to the State of Montana. Only those gift certificates and stored valued cards sold in the State of Montana are covered by this bill. The bill directs the funds collected from abandoned gift certificates and stored valued cards be deposited into the affordable housing loan account. HB 430 is estimated to transfer to the Housing Revolving Loan Account in the Department of Commerce approximately \$5.65 million in FY 2011. The Departments of Revenue and Commerce estimate the legislation will require one additional FTE each, or a total of two additional FTE, in FY 2011.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. This bill revises language in the Montana Code Annotated Title 70, Chapter 9, and Section 8, requiring issuers of gift certificates and stored value cards to remit unused balances to the State of Montana. The

bill covers only those gift certificates and stored valued cards sold in the State of Montana. The Uniform Unclaimed Property Act and court case history has established the distribution of funds from unclaimed gift certificates and stored value cards as follows; priority goes to the state of last known address of the issuer. If the address is not known or the state in which the last known address exempts that type of property from their unclaimed property code, then the issuer's state of domicile will be entitled to the unclaimed values. Gift certificates and stored value cards sold in Montana that meet the conditions of the Unclaimed Property Act are remitted to the state in which the retailer is domiciled. Most large national retailers are domiciled in the state of Delaware.

2. In February of 1995 Montana, along with other states, negotiated an agreement with Delaware not to contest the forwarding of unclaimed property to the state of domicile (Delaware in a majority of the cases) if the last known address of the unclaimed property owner was unknown. This negotiation specifically covered gift certificates and stored value cards. As a result of the negotiation Montana received \$100,000 a year for 10 years from the State of Delaware. This agreement ended in 2005. With the expiration of this agreement, Montana is no longer obligated to allow national retailers to remit 60% of the value of store value cards that were sold in Montana, but determined to be unclaimed property to the State of Delaware.
3. Figures from the 2005 *Statistical Abstract of the United States* show the use of stored valued cards growing at a rate of over 10.27% through the end of the decade. The most recent data available from the U.S. Census Bureau has stored value cards used in \$69 billion dollars worth of retail transactions. U.S. Census Bureau estimates that by 2007, stored value cards will be used in over \$102 billion of retail transactions nationally.
4. Current Economic Census data reports national retail sales from general merchandise stores totaled over \$444 billion dollars in sales. Montana specific retail sales from general merchandise stores totaled over \$1.6 billion dollars in the same report. The Montana portion of these retail sale equal 0.37% of the national total.
5. For the purposes of this fiscal note, it is assumed that Montana's portion of the value of stored valued cards transactions will mirror Montana's portion of national retail sales. Applying the 0.37% (Montana's portion of retail sales) to the \$69 billion dollars in stored value card transactions, it is estimated that Montana's portion of these transactions totaled over \$255 million dollars.
6. There has been a limited amount of research on uses of stored value cards. In the available research the percentage of stored value cards that are not used varies with the highest percent being 10%. None of the research covers more than a one year period.
7. This bill requires that the gift certificates or stored value cards be dormant for three years after purchased. Articles from the National Retail Trade Association highlight an emerging consumer trend where consumers bundle stored value cards together to make large purchases. Assuming that the bundling behavior accounts for the high percentage of stored value cards that are not used during the first year after being purchase. This fiscal note uses a conservative estimate that 5% of stored value cards sold in the state of Montana will become unclaimed property.
8. Due to the time period that property must be dormant under unclaimed property law, there will be a lag in revenue collections from unclaimed gift certificates and stored value cards. The bill's effect on gift certificates and stored value cards will be fully phased in by fiscal year 2011. As the bill comes into full effect, not all retailers will be in compliance with this bill. A conservative 50% rate of noncompliance was used in fiscal year 2011.
9. In fiscal year 2005, there was \$14,258 worth of gift certificates and stored value cards remitted to the department. The majority of the \$14,258 was from unclaimed gift certificates from Montana based retailers. Most Montana based retailers do not issue stored value cards.
10. For this fiscal note, the basis of the unclaimed property revenue from gift certificates and stored value cards in fiscal year 2011 is the value of stored value card transactions that occurred in 2007. As stated above, the estimated national total of stored value card transaction is \$102 billion dollars for 2007. Using Montana's portion of national retail sales from general merchandise stores, it is estimated that the

Montana total of stored value card transactions will be \$377 million dollars ($\$102,018,419,302 \times 0.0037 = \$376,676,347$) in 2007. Five percent of these transactions would equal \$18.8 million dollars. Under the Uniform Unclaimed Property Act, Montana's portion of the unclaimed cards would be 60% or \$11.3 million dollars. Applying the 50% noncompliance factor drops the estimated revenue for fiscal 2011 to \$5.7 million dollars ($\$11,300,290 \times 50\% = \$5,650,145$).

11. In fiscal year 2011, \$5,650,145 would be moved out of the unclaimed property account and deposited into the affordable housing loan account.
12. The department intends to work with retailers to develop a compliance program that enables retailers to comply with the changes to the unclaimed property laws created by this bill. This will require the department to provide staff to educate and monitor retailers. It is estimated that 1.0 FTE will be required to meet these ongoing requirements. The department will also incur additional expense in support of the additional FTE.

Department of Commerce

13. Under the bill the costs incurred in administering the loan account must be paid from the loan account. The Housing Division estimates it will require 1.0 FTE pay band 6 in FY 2011 to meet the loan workload requirements as specified in the bill. Personal service costs are estimated to be \$56,862, operating service costs are estimated at \$15,294 which includes \$3,475 of one-time or start-up costs, leaving total loan amount available of \$5,577,989 (also included in operating expenses).

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
Department of Revenue				
FTE	0.00	0.00	0.00	1.00
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$0	\$56,751
Operating Expenses	\$0	\$0	\$0	\$23,898
Equipment	\$0	\$0	\$0	\$5,900
TOTAL Expenditures	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$86,549</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$86,549
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$86,549</u>
Department of Commerce				
FTE	0.00	0.00	0.00	1.00
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$0	\$56,862
Operating Expenses	\$0	\$0	\$0	\$5,593,283
TOTAL Expenditures	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$5,650,145</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other (Enterprise Fund)	\$0	\$0	\$0	\$5,650,145
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$5,650,145</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other (Enterprise Fund)	\$0	\$0	\$0	\$5,650,145
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$5,650,145</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	\$0	\$0	(\$86,549)
Other (Enterprise Fund)	\$0	\$0	\$0	\$0

Long-Range Impacts:

1. As the use of stored value card expands revenue from unclaimed stored value card will increase.
2. The Department of Revenue intends to work with retailers to develop a compliance program that enables retailers to comply with the changes to the unclaimed property laws created by this bill. As compliance improves in future years, additional FTE and associated administrative costs may be needed to manage the loan workload in the Housing Division.

Technical Notes:

1. Under the proposed distribution of funds received from abandoned stored value cards, claims will be paid from the abandoned property funds deposited in the state general fund, not the affordable housing loan account. In order to mitigate this issue, a portion of the funds collected from unused stored value cards should be retained in the abandoned property account to cover claims **or** the general fund should have the ability to recover the value of stored value cards it repays to owners who claim the property.

Sponsor's Initials

Date

Budget Director's Initials

Date